THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No.20683 of 1997

25-04-1997

Between:-

Dharmaveer

Petitioner

And

The Director,
Salarjung Museum, Hyderabad and another.

Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No.20683 of 1997

Oral order:

This writ petition is filed seeking a declaration that the Recruitment Rules of the Salarjung Museum Board (for short 'the Rules') issued as on 01-07-1989 are violative of Articles 14 and 16 of the Constitution of India inasmuch as they fail to provide a channel of promotion to the post of Junior Modellers in the Salarjung Museum (for short 'the Museum"); for a direction to provide a channel of promotion by amending the Rules suitably, to the post of Gallery Assistant/Guide Lecturer from the post of Junior Modeller or in the alternative provide higher scales of pay of Rs.1400-2300 in the cadre of Junior Modellers of the Museum and to consider the case of the petitioner for promotion with retrospective effect and consequential

benefits.

The petitioner retired from service on 31-08-1997. Earlier he was appointed as Junior Modeller with effect from 16-01-1975 in the respondent-Museum in the scale of Rs.330-480 corresponding to the present scale of Rs.1200-1800. The functions of the petitioner were in the Replica wing of the Museum, which commenced with the petitioner's appointment as a Junior Modeller in January, 1975. According to the petitioner, he has expertise in manufacturing and moulding replicas of world famous statutes of Rabica, Mafistefilo, Margeretta in smaller sizes in rubber and plaster-of-paris.

The complaint of the petitioner is that ever since his appointment as Junior Modeller, he is working in the same scale of pay and in the same post without any promotion. He complains that he has completed 22 ½ years and is on the verge of retirement by
31-08-1997.

The recruitment Rules issued by the Salarjung Museum Board do not provide a channel of promotion to Junior Modellers
(Class-III), while various other posts in Class-III are provided promotional avenues to higher cadres. According to the petitioner, in the National Museums at Calcutta and Delhi, the post of Modeller was provided with four scales of pay i.e., Rs.1200-1800; 1400-2300;
1640-2900 and 2000-3200. Apart from higher scales of

pay to Modellers, the National Museums have also provided channel of promotions to higher posts.

In paragraph No.5 of the affidavit filed in support of the writ petition, it is alleged that one Panduranga Kulkarni working as a Junior Modellor, who was junior to the petitioner was considered for promotion as Guide Lecturer in the scale of pay of Rs.1400-2300 even though he was not eligible as per the Rules. It is also alleged that the said individual was promoted further as Gallery Assistant in the same scale of pay as that of a Guide Lecturer, though he was not eligible for this post either. The petitioner points out that when Sri Kulakarni could be accorded a promotional benefit even though ineligible a similar and equitable benefit ought to have been extended to the petitioner also. The petitioner also states that number of employees were given *ad hoc* promotion to next higher cadres while no such benefit was accorded to him.

On behalf of the Museum, the Director has filed a counter affidavit. It is asserted in the counter that the petitioner's claim for promotion as Guide Lecturer or Gallery Assistant is untenable as there are specific qualifications of a degree plus Diploma in Museology prescribed for these posts which are selection posts and are not to be filled on the basis of seniority. The petitioner is not a graduate and is therefore ineligible for consideration even for *ad hoc* promotion. The counter

also states that policy of Assured Career Progression Scheme on account of stagnation applicable to Central Government employees was brought in under the Fifth Pay Commission recommendations with effect from 09-08-1999. The petitioner is however not eligible for this benefit as he had retired earlier on 31-08-1997.

Responding to the petitioner's allegation regarding the promotion given to Panduranga Kulkarni, the counter states that the said individual was considered for promotion as Guide Lecturer in view of the interim directions of this Court in W.P.No. 9811 of 1991. In any event, Kulakarni was a graduate and was having Post Graduate Diploma in Museology and therefore was eligible and considered as Guide Lecturer in the first instance and Gallery Assistant thereafter. He was promoted on account of the interim orders of this Court in the aforementioned writ petition, but was thereafter reverted to the post of Junior Modeller in view of the final orders of this Court dated 14-10-1997 dismissing the writ petition.

Regarding M.A. Saleem, the counter states that his promotion as Library Assistant is also based on the interim orders of this Court in W.P.No. 26196 of 1993 and as a Gallery Assistant on 16-12-1992. The said promotion was continued in favour of Saleem till the final disposal of the Writ Petition No. 20843 of 1993. Thereafter Saleem was reverted on 29-09-1995 after final

disposal of the said writ petition.

The sum and substance of the counter is that the petitioner is not eligible to be considered for promotion to the post of Guide Lecturer or Gallery Assistant. The respondent also pleads writ petition was filed on 26-08-1997 at the threshold of his superannuation on 31-08-1997 and that Rules are evolved as a matter of policy and no writ could be issued for amending the Rules. The counter urges the dismissal of the writ petition.

In view of the averments in the counter affidavit to which there is no demurral by the writ petitioner, it is apparent that the petitioner is not qualified or eligible to be appointed as Guide Lecturer.

Under the recruitment regulations of the respondent-Museum, for Guide Lecturers by the promotional method the required qualification is graduate with good knowledge of Museum exhibits in the present set up for five years with special aptitude for guiding visitors. For Gallery Assistants, the qualification is graduate with ten years experience. It is asserted by the petitioner in paragraph No.6 of the affidavit filed in support of the writ petition that the Government of India had recognized the qualification possessed by the petitioner viz., Diploma in Modeling and Sculpture as equivalent to Degree in Arts. In the circumstances, the petitioner is seen to be qualified for the post of Gallery Assistant as he is working in a Class-III post as Junior Modeller drawing a scale of pay of more

than Rs.950-1500 and has a qualification which is recognized as equivalent to graduation and has also ten years experience, the qualifications prescribed in the Rules for consideration of appointment by promotion to the post of Gallery Assistant.

In view of the above position under the Rules, the contention in the counter affidavit that the petitioner is not qualified for promotion as Gallery Assistant is seen to be erroneous.

On the aforesaid analysis, though the petitioner is ineligible for consideration to the post of Guide Lecturer, the petitioner is eligible for consideration for appointment by promotion as Gallery Assistant. Accordingly, the respondent is directed to consider the case of the petitioner for notional appointment as Gallery Assistant and if found suitable and eligible for such appointment, the petitioner may be accorded the consequent benefits of such appointment.

The writ petition is accordingly disposed of. There shall be no order as to costs.

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GODA RAGHURAM, J

Dated:25-04-2007
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